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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 TRUNG THANH LE,

14 Defendant.

CASE NO. CR06-0319JLR

ORDER

15 **I. INTRODUCTION**

16 Before the court is *pro se* Defendant Trung Thanh Le's motion to expunge his
17 criminal record.¹ (Mot. (Dkt. # 639).) Plaintiff the United States of America (the
18 "Government") opposes his motion. (Resp. (Dkt. # 640).) The court has considered the

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22 ¹ Because Mr. Le is proceeding *pro se*, the court construes his letter to the court, in which he requests that the court "remove the record of [his] wrongdoing" (Mot. at 2), as a motion to expunge his criminal record.

1 parties' submissions, the relevant portions of the record, and the applicable law. Being
2 fully advised, the court DENIES Mr. Le's motion.

3 II. BACKGROUND

4 Mr. Le was arrested in 2006 for his role as a courier in a large-scale drug
5 trafficking and money laundering organization. (Plea Agreement (Dkt. # 220 (sealed)) at
6 5-6 (alleging that he transported marijuana and currency received as payment for the
7 marijuana on numerous occasions); Indictment (Dkt. # 1) at 1-2.) He pleaded guilty to
8 one count of conspiracy to distribute marijuana and one count of conspiracy to engage in
9 money laundering. (Plea Agreement at 1-2.) In September 2007, the court sentenced Mr.
10 Le to 28 months of imprisonment to be followed by five years of supervised release.
11 (Judgment (Dkt. # 467); 9/17/07 Min. Entry (Dkt. # 466).) Thereafter, Mr. Le served his
12 sentence and completed his supervised release. (*See* Resp. at 2.)

13 In March 2022, Mr. Le sent a letter to the court describing his current
14 circumstances and the adverse collateral consequences of his previous conviction on his
15 employment opportunities. (Mot. at 1-2.) He requests that the court expunge his
16 criminal record of the above-mentioned conviction. (*Id.* at 2.)

17 III. ANALYSIS

18 A defendant's request to expunge a criminal record asks the court to "destroy or
19 seal the records of the fact of the defendant's conviction," "not the conviction itself."
20 *United States v. Crowell*, 374 F.3d 790, 792 (9th Cir. 2004) (stating that a defendant
21 "who seeks expungement requests 'the judicial editing of history'" (quoting *Rogers v.*
22 *Slaughter*, 469 F.2d 1084, 1085 (5th Cir. 1972))). There are "two sources of authority by

1 which [federal] courts may expunge records of criminal conviction: statutory authority
2 and inherent authority.” *Id.* “By statute, Congress has set the conditions by which the
3 courts may expunge records of federal convictions in particular cases.” *Id.* (discussing
4 some of the statutory authority for expungement of records); *see also United States v.*
5 *Sumner*, 226 F.3d 1005, 1012 (9th Cir. 2000) (same).

6 If no such federal statute exists or applies, district courts may exercise their
7 inherent authority “to expunge criminal records in appropriate and extraordinary cases.”
8 *Crowell*, 374 F.3d at 793; *see also Sumner*, 226 F.3d at 1013-15 (“[In criminal
9 proceedings,] district courts possess ancillary jurisdiction to expunge criminal records.”).
10 A district court’s “ancillary jurisdiction is limited to expunging the record of an unlawful
11 arrest or conviction, or to correct clerical error.” *Sumner*, 226 F.3d at 1014; *see also*
12 *Crowell*, 374 F.3d at 796 (“[E]ven where a conviction has been held unlawful and
13 vacated, expungement remains a ‘narrow, extraordinary exception,’ one ‘appropriately
14 used only in extreme circumstances.’” (quoting *United States v. Smith*, 940 F.2d 395, 396
15 (9th Cir. 1991))). District courts do not have the power to expunge a record of a valid
16 arrest and conviction “solely for equitable considerations.” *Sumner*, 226 F.3d at 1014
17 (noting that such limits on expungement are necessary to respect “the
18 powers . . . allocated to Congress, the Executive, and the states”). “Thus, courts will not
19 expunge criminal records for the sole purpose of avoiding collateral consequences, such
20 as a defendant’s employability.” *See United States v. Bonelli*, No. 5:11-CR-00142-EJD,
21 2021 WL 5012092, at *1 (N.D. Cal. Oct. 28, 2021) (citing *Sumner*, 226 F.3d at 1014).

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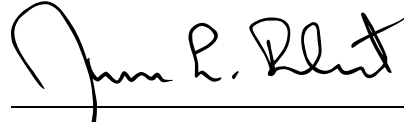
1 Here, Mr. Le does not argue and it does not appear that he is entitled to relief
2 under any statute. (*See generally* Mot.) Moreover, Mr. Le does not argue that his arrest
3 or conviction were unlawful, nor does he argue that there was a clerical error. (*See*
4 *generally id.*) Rather, he seeks expungement on equitable grounds—specifically, his
5 difficulty in attaining certain types of employment. (*See id.* at 2.) Although the court
6 sympathizes with the employment challenges that Mr. Le faces due to his conviction, the
7 court lacks jurisdiction to expunge his criminal record on such grounds. *See, e.g.,*
8 *Sumner*, 226 F.3d at 1015 (holding that a district court does not have ancillary
9 jurisdiction in a criminal case to expunge a criminal record where the sole basis for the
10 request was to enhance defendant’s employment opportunities); *United States v.*
11 *Souksavath*, No. 1:10-CR-00462-NONE-3, 2021 WL 4318419, at *1 (E.D. Cal. Sept. 23,
12 2021) (denying motion to expunge conviction on equitable grounds for lack of
13 jurisdiction based on the defendant’s argument that he has had “a hard time finding
14 gainful employment due to the current charge being a felony”); *Bonelli*, 2021 WL
15 5012092, at *2 (denying motion to expunge conviction on equitable grounds for lack of
16 jurisdiction based on the defendant’s argument that she has had “difficulty maintaining
17 employment because of the background checks that display her conviction”).
18 Accordingly, the court DENIES Mr. Le’s motion to expunge his criminal record.²

20 ² While the court is unable to grant the requested relief, there may, as the Government
21 notes in its response, “be other avenues available for [Mr.] Le to seek some relief.” (*See Resp.* at
22 3 (citing *Crowell*, 374 F.3d at 792-795 (re-affirming limits on district court’s jurisdiction over
requests for expungement and listing numerous alternative avenues for expunging records of
certain criminal convictions and for challenging prior convictions)); *id.* at 4 (citing *Office of the*

1 **IV. CONCLUSION**

2 For the foregoing reasons, the court DENIES Mr. Le's motion to expunge his
3 criminal record (Dkt. # 639).

4 Dated this 8th day of April, 2022.

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7 JAMES L. ROBART
United States District Judge
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Pardon Attorney, U.S. Dep't of Justice, <https://www.justice.gov/pardon> (last visited Apr. 5, 2022)).)